

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CAROTEK, INC.,)	
)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 07 11163
)	
KOBAYASHI VENTURES, LLC,)	
)	
Defendant.)	
<hr style="border: 0.5px solid black;"/>		
EVENT CAPTURING SYSTEMS, INC.)	
)	
Plaintiff,)	
)	
v.)	
)	
KOBAYASHI VENTURES, LLC,)	
)	
Defendant.)	
<hr style="border: 0.5px solid black;"/>		

**PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT
ON INVALIDITY AND NON-INFRINGEMENT ISSUES**

COMES NOW, Plaintiffs Carotek, Inc. (“Carotek”) and Event Capturing Systems, Inc. (“ECS”) and moves the Court for summary judgment pursuant to Federal Rule of Civil Procedure 56. Carotek and ECS move for summary judgment on three separate grounds:

- (1) That the Champion Patents, U.S. Patent No. 5,717,456 (“the ‘456 patent”), U.S. Patent No. 5,821,990 (“the ‘990 patent”), and U.S. Patent No. 6,211,905 (“the ‘905 patent”), are invalid for failure to provide sufficient disclosure in the specification to enable a person skilled in the arts or sciences to which the subject

matter pertains or with which it is most nearly connected to make and use the same as required by 35 U.S.C. § 112 and for failing to conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention;

- (2) That Carotek and ECS do not literally infringe any valid claim of the Champion patents; and
- (3) That Carotek and ECS do not infringe any valid claim of the Champion Patents under the doctrine of equivalents.

Carotek and ECS submit a memorandum herewith in support of this motion.

NOW THEREFORE, Plaintiffs respectfully move for summary judgment against Kobayashi. A proposed order granting the requested relief is provided for the Court's consideration.

Respectfully submitted,

/s/ Raymond R. Castello
Raymond R. Castello (RC 2106)
Fish & Richardson P.C.
Citigroup Center - 52nd Floor
153 East 53rd Street
New York, NY 10022-4611
Telephone: 212-765-5070
*Attorney for Plaintiff Carotek, Inc. and
Event Capturing Systems, Inc.*

OF COUNSEL:

W. Thad Adams, III, Esq. (N.C. Bar Number 00,020)
ADAMS INTELLECTUAL PROPERTY LAW, P.A.
201 South College Street, Suite 2350 Charlotte Plaza
Charlotte, NC 28244
Tel: (704) 375-9249
Fax: (704) 375-0729
litigation@adamspat.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT ON INVALIDITY AND NON-INFRINGEMENT ISSUES** was served on the Defendant by sending copies by E-Mail:

Alexia Bourgerie
Jeffrey Schwaber
Stein, Sperling, Bennett, De Jong & Greenfeig, PC
25 West Middle Lane
Rockville, MD 20850
abourgerie@steinsperling.com
jschwaber@steinsperling.com

on September 3, 2008.

/s/ Miranda Perkins